

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

BRENDAN McKOWN, individually,

Plaintiff,

v.

SIMON PROPERTY GROUP, INC. d/b/a
TACOMA MALL, a Delaware corporation, IPC
INTERNATIONAL CORPORATION, an Illinois
corporation, and DOMINICK SERGIO
MALDONADO, individually,

Defendants.

NO. CV-0574-JKA

**AMENDED COMPLAINT FOR
DAMAGES**

I. INTRODUCTION

1.1 This claim is based on the injuries suffered by Plaintiff Brendan McKown, who was shot by Dominick Sergio Maldonado while he was at the Tacoma Mall. Simon Property Group, Inc. managed and operated the mall, and IPC International Corporation provided security services for the mall. Plaintiff, by and through his undersigned counsel, alleges and states as follows:

II. PARTIES

2.1 Plaintiff is a resident of Pierce County, Washington.

2.2 Defendant Dominick Sergio Maldonado is a resident of Pierce County,

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1 Washington.

2 2.3 Defendant Simon Property Group, Inc. d/b/a Tacoma Mall ("Simon Property
3 Group") is a Delaware corporation licensed to do business in Washington State. Simon
4 Property Group's registered agent is CT Corporation System, which is located at 1801 West
5 Bay Drive NW, Suite 206, Olympia, Washington. The acts of Simon Property Group's agents
6 and/or representatives were done by and on behalf of Simon Property Group for which it is
7 liable on the basis of respondeat superior, agency, and/or apparent agency.

8 2.4 Defendant IPC International Corporation ("IPC International") is an Illinois
9 corporation licensed to do business in Washington State. IPC International's registered agent
10 is CT Corporation System, which is located at 1801 West Bay Drive NW, Suite 206,
11 Olympia, Washington. IPC International is and was an agent of Simon Property Group. At
12 the time of the incident giving rise to this claim, IPC International was acting within the scope
13 of its agency/contract with Simon Property Group and in furtherance of the interests and
14 fulfillment of the duties of the agency/contract relationship.

15 **III. JURISDICTION AND VENUE**

16 3.1 Plaintiff resided in Pierce County, Washington, at all material times.

17 3.2 All defendants in this action resided, existed, or conducted business in Pierce
18 County, Washington.

19 3.3 The events that gave rise to this action occurred in Tacoma, Washington.

20 3.4 Defendant Maldonado and Plaintiff are both Washington State residents.

21 3.5 Jurisdiction and venue are proper in Pierce County Superior Court.

22 **IV. STATEMENT OF FACTS**

23 4.1 Plaintiff realleges the above paragraphs as if fully set forth below.

24 4.2 On November 20, 2005, Plaintiff was working at the Excalibur Cutlery Store,
25 which is located in the Tacoma Mall. Plaintiff left his place of employment and walked down
26 a corridor in the mall to make a bank deposit. On his way to the bank, Plaintiff stopped at a

1 Kits Camera store. Upon exiting the store, Plaintiff heard the sound of gunfire and saw
2 Maldonado, who was wielding an assault rifle and a high-capacity semi-automatic machine
3 pistol.

4 4.3 Maldonado opened fire within the Tacoma Mall. While Plaintiff was in the
5 mall, Maldonado shot Plaintiff several times, causing Plaintiff serious and permanently
6 disabling injuries.

7 4.4 At all relevant times, Simpson Property Group managed and operated the
8 Tacoma Mall and IPC International provided security services for the Tacoma Mall.

9 **V. FIRST CAUSE OF ACTION—AGAINST SIMON PROPERTY GROUP AND**
10 **IPC INTERNATIONAL**
11 **Premises Liability**

12 5.1 Plaintiff incorporates by reference all preceding paragraphs, restating the
13 information contained therein, and further alleges as follows:

14 5.2 Plaintiff was a business invitee at the Tacoma Mall.

15 5.3 The acts and omissions of Defendants Simon Property Group and/or IPC
16 International alleged herein constitute negligence. Defendants owed Plaintiff a duty to protect
17 him from the reasonably foreseeable criminal conduct of third parties and unreasonably
18 dangerous conditions. Defendants breached this duty, and the breach was a direct, proximate,
19 and foreseeable cause of Plaintiff's serious and permanently disabling injuries, as well as
20 general and special damages, the full extent of these injuries to be proven at trial.

21 **VI. SECOND CAUSE OF ACTION—AGAINST SIMON PROPERTY GROUP**
22 **AND IPC INTERNATIONAL**
23 **Negligence; Failure to Provide Adequate Security**

24 6.1 Plaintiff incorporates by reference all preceding paragraphs, restating the
25 information contained therein, and further alleges as follows:

26 6.2 The acts and/or omissions of Defendants Simon Property Group and IPC
International constitute negligence, including but not limited to negligent hiring, supervision,

1 and retention of security personnel at the Tacoma Mall; the negligent response to the mall
 2 shooting; and failure to install proper devices to monitor individuals on the mall premises,
 3 proper security cameras, and other devices. As a direct, proximate, and foreseeable cause of
 4 Defendants' failure to provide adequate security to prevent criminal and tortious activity and
 5 prevent Plaintiff from being attacked and injured, Plaintiff sustained serious and permanently
 6 disabling injuries, as well as general and special damages, the full extent of these injuries to
 7 be proven at trial.

8 **VII. THIRD CAUSE OF ACTION—AGAINST MALDONADO**
 9 **Assault**

10 7.1 Plaintiff incorporates by reference all preceding paragraphs, restating the
 11 information contained therein, and further alleges as follows:

12 7.2 Defendant Maldonado intentionally shot Plaintiff, causing Plaintiff to
 13 reasonably apprehend harmful or offensive contact with his person and injuring Plaintiff in an
 14 amount to be determined at trial.

15 7.3 Defendant Maldonado is liable for this assault.

16 **VIII. FOURTH CAUSE OF ACTION—AGAINST MALDONADO**
 17 **Battery**

18 8.1 Plaintiff incorporates by reference all preceding paragraphs, restating the
 19 information contained therein, and further alleges as follows:

20 8.2 Defendant Maldonado intentionally shot Plaintiff, causing harmful and
 21 offensive contact with Plaintiff's person and injuring Plaintiff in an amount to be determined
 22 at trial.

23 8.3 Defendant Maldonado is liable for this battery.

24 WHEREFORE, Plaintiff, having fully stated his cause of action against the
 25 Defendants, now prays for judgment against the Defendants as follows:
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1. For judgment against the Defendants, jointly and severally, in the cause as described herein;
2. For special damages in an amount to be proved at time of trial;
3. For general damages in an amount to be proved at time of trial;
4. For plaintiff's costs and attorneys fee herein;
5. For such other and further relief as the Court deems just and equitable.

DATED this 2nd day of January, 2009.

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CERTIFICATE OF SERVICE

I, Darrell L. Cochran, hereby certify that I caused the attached to be electronically filed with this Court and served via electronic service on this 2nd day of January, 2009:

T. Jeffrey Keane TJKI@TJKEANELAW.COM, DMP@TJKEANELAW.COM

No further service via U.S. Mail is required on any other party.

DATED: January 2, 2009

s/s Darrell L. Cochran

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